



App. Control No. 09/975,761
Reply dated 10/11/2001

AF/1733
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Kenneth C. Caster Docket No.: IR-2588(ET)CIP2
Serial No.: 09/975,761 Art Unit: 1733
Filed: October 11, 2001 Examiner: Geoffrey L. Knable
For: "Contact Metathesis Polymerization"

REPLY AFTER FINAL

Assistant Commissioner of Patents
Mail Stop AMENDMENT
PO Box 1450
Alexandria, VA 22313-1450

Dec. 30, 2004

Sir:

In response to the Final Office Action dated 12/14/2004, kindly consider the submission and remarks.

With regard to MPEP 718, Applicants note the quoted phrase is ambiguous and contravenes other rules if taken in the meaning ascribed in the rejection. The statute clearly establishes that so long as the prior citation is not 102(b) prior art, meaning, anticipatory without recourse, then the reference can be removed as "prior art." "Removed as prior art" means, removed as a matter of law, as not prior.

Clearly, art that is applicable under is 102(e) (e.g. Tokas) can be removed by antedating such reference by a showing under 37 CFR 1.131, and therefore MPEP 718 should not be read to contravene this viable rule. The correct interpretation of the quoted phrase must be anticipation "under 102(b)," consistent with the statutory language.

Nevertheless, in the matter of rejection under 35 USC 102(e) and 103 (a) over Tokas et al, this publication is, in fact, the parent application in the present case. Acceptance of the petition by the Office of Petitions by according Applicants their original, parent filing date will moot these rejections and also remove US

OK TO Easter
OK 1-31-2005
Note: no claims
amendments were
made in 1-3-05,
set of claims